

**STAFF REPORT**  
**PLANNING COMMISSION**

**FILE NO.:** CP11-045

**Submitted:** June 13, 2011

**PROJECT DESCRIPTION:**

A Conditional Use Permit to allow a new 1,737 square foot addition including restrooms and utility structure, for religious assembly use with associated site improvements, within the rear yard of an existing single-family residence on a 0.47 gross acre site.

Zoning	R-1-8 Single Family Residential
General Plan	Residential Neighborhood
Council District	8
Annexation Date	December 14, 1967
Specific Plan	NA

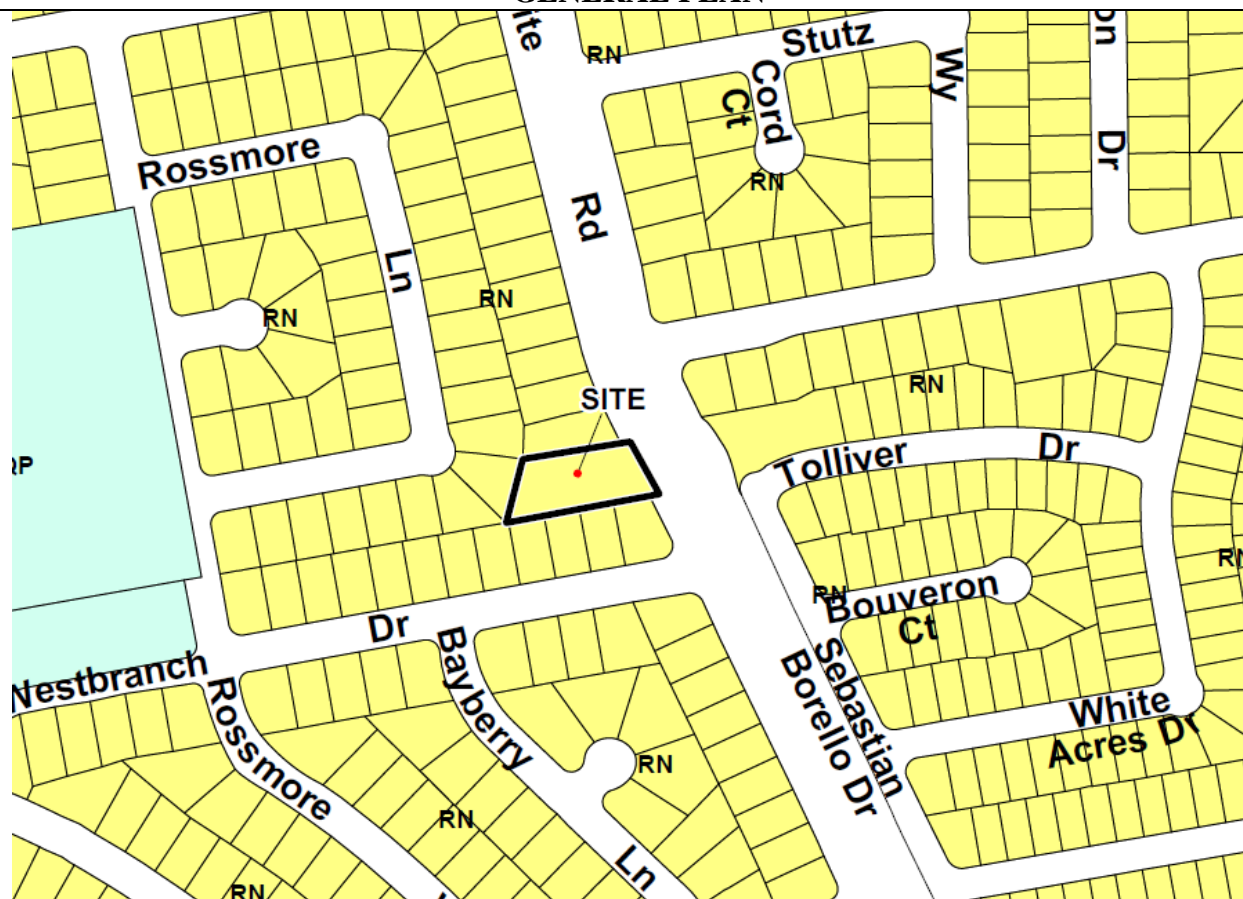
**LOCATION:**

West side of South White Road and approximately 150 feet northerly of Westbranch Drive  
(2977 South White Road)

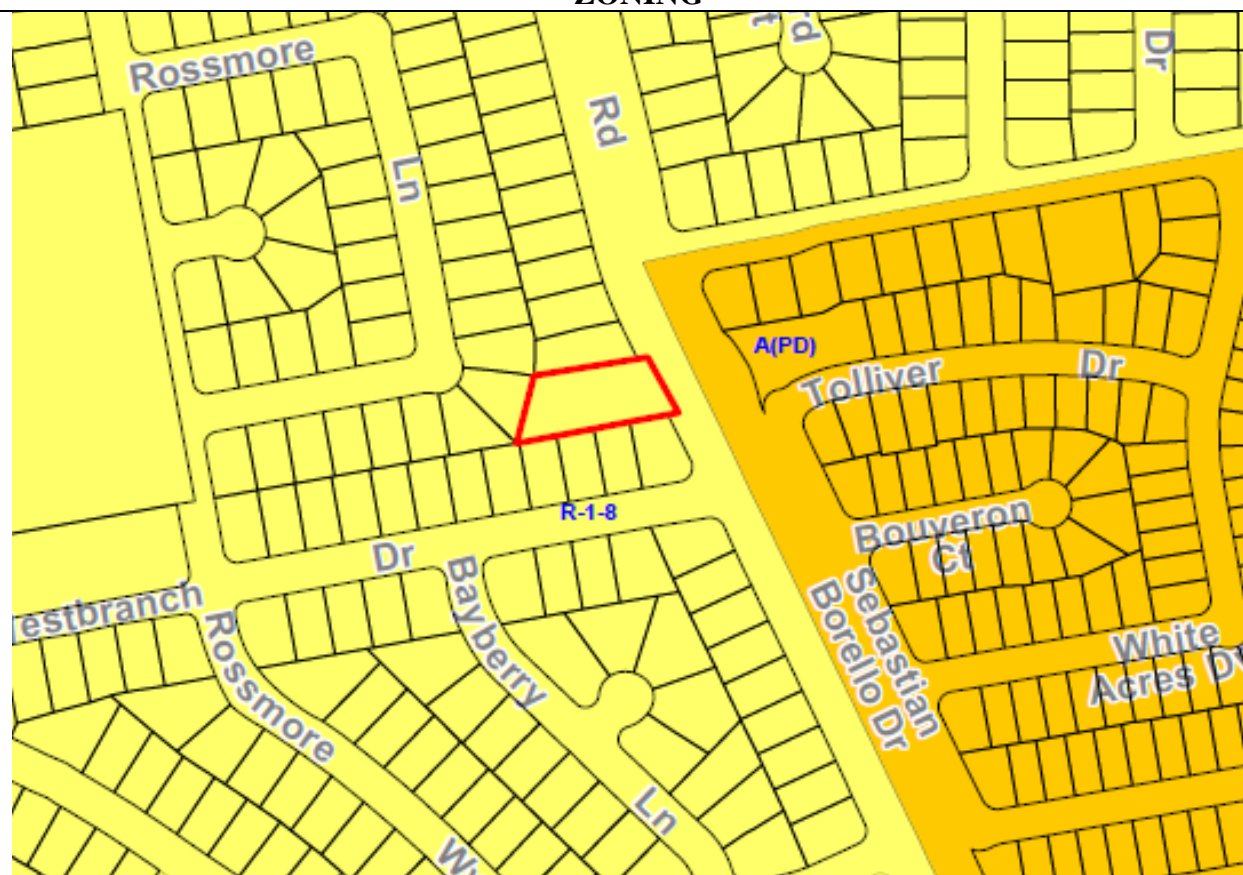
**Aerial Map**



### GENERAL PLAN



### ZONING



## **RECOMMENDATION**

Planning staff recommends that the Planning Commission approve the proposed Conditional Use Permit on the subject site for the following reasons:

1. The subject Conditional Use Permit is consistent with the Envision San Jose 2040 General Plan.
2. The findings for a Conditional Use Permit as required in the Zoning Ordinance can be made for approval of the proposed use.
3. The proposed project is exempt from review in accordance with the California Environmental Quality Act.

## **BACKGROUND**

On June 13, 2011, Uy Thi Dong, representing Quan The Am Thien Tu, applied for a Conditional Use Permit to allow the use of a new 1,737 square foot addition including restrooms and utility structure for religious assembly and associated site improvements in the rear yard of an existing single-family residence on a 0.47 gross acre site. Per Chapter 20.30.100 of the San Jose Municipal Code, a religious assembly use may be allowed in the R-1-8 Single Family Residential Zoning District upon issuance of a Conditional Use Permit.

Quan The Am Thien Tu is a non-profit religious corporation founded in August 2000. This religious assembly use conducts two annual special events, twice a month weekday evening activities and weekend events from 9:00 a.m. to 5:00 p.m. on all Saturdays and Sundays. The annual events are conducted off-site on alternative locations in order to typically accommodate 200 persons. Apart from the scheduled events, the premises will stay open for parishioners for independent worship and meditation purposes.

The Code Enforcement Division of the Department of Planning, Building and Code Enforcement required the applicant to legalize religious assembly use for an existing accessory structure on site. In addition to the construction of new buildings for religious assembly use, the applicant is proposing to remove a canopy, deck, and storage unit which were built on the subject site without the benefit of permits.

### **Project Description**

The project site consists of a 1,406 square feet main residence to the front of the site and a 1,014 square feet accessory/garage structure at the rear northwest corner. The existing 394 square feet tower structure and storage unit along the north property line will be removed and a new addition is proposed at the same location. The new construction consists of a 1,237 square feet main sanctuary and a 500 square feet restroom/utility structure. All unpermitted prior additions on site that include existing will be removed.

The existing main house on project site continues to function as a residence. The rear accessory structure was initially proposed for religious assembly use but will be restored to previous use as garage. A total of seven (7) off-street parking spaces and four (4) private garage parking spaces within the existing garage/accessory structure are provided on the project site.

The hours of operation for congregation at the main sanctuary are 9:00 a.m. to 5:00 p.m. on Saturday and Sunday. Activities based on the Lunar Calendar are scheduled on weekday evenings between 5:30 p.m. to 8:00 p.m. Additional one-time special annual events are scheduled twice a year in April and July at locations other than the subject site.

## **Site and Surrounding Uses**

The project site is located along South White Road and approximately 150 feet north of Westbranch Drive. It is bounded by single-family detached residences to the south, west and north; and separated by the South White Road to the east. Single-family residential uses surround the church on all sides.

## **ANALYSIS**

The proposed Conditional Use Permit was analyzed with respect to conformance with: 1) Envision San Jose 2040 General Plan, 2) City of San Jose Zoning Ordinance, and 3) Neighborhood compatibility. 4) California Environmental Quality Act.

### **Envision San Jose 2040 General Plan Conformance**

The Envision San Jose 2040 General Plan Designation for this site is Residential Neighborhood. The General Plan identifies religious assembly uses as appropriate uses on sites with residential land use designations if the design is compatible with surrounding land uses and can enhance neighborhood identity in the sense that neighborhoods should include places for worship. The broader issues of neighborhood compatibility, parking and circulation, and site design are discussed later in this report. The proposed project is in conformance with Vibrant Neighborhood Policy VN-1.2 that supports the development of new community services and gathering spaces that allow for increased social interaction of neighbors; and Vibrant Neighborhood Policy VN-5.3 that encourages Private Community Gathering Facilities as a primary or secondary dual- or multi-use with other activities.

### **Zoning Ordinance Conformance**

The project site is located in the R-1-8 Single-Family Residence Zoning District which allows religious assembly use with a Conditional Use Permit. The single-family residence on the subject site will continue to serve as primary residence.

The types of proposed uses are ancillary to religious assembly use such as prayer sessions, religious ceremonies, lectures and meditation activities.

### *Parking*

Even though the residential use will remain on the property with the addition of the religious assembly use, the evaluation of the new use should consider City Council Policy 6-11, Design Criteria for the Conversion of Residential Structures to Non-Residential Uses. This Policy contains guidance that helps ensure compatibility between residential and non-residential uses. It states that all vehicular circulation must take place on site and that backing into the street is not allowed. To ensure minimal backing onto the street, the driveway to the north of the site shall be used for egress only by the personnel of the facility. The congregation members will only use the main driveway located towards the south. Staff recommends that landscaping be restored on site and on the park strips adjacent to the street.

The larger issue of parking for the whole site, including the main sanctuary facility, is subject to conformance with the Zoning Ordinance requirement and general site design guidelines. The Zoning Ordinance off-street parking requirement for religious assembly is one (1) parking space per every four fixed seats, or one parking space per every six linear feet of seating provided, or one (1) parking space per 30 square feet of area designed for assembly in buildings used for worship. A total of seven (7) off-street

parking spaces and four (4) private garage parking spaces within the existing garage/accessory structure are provided on the project site.

The addition of the religious assembly use includes the provision of worship space with a total of 34 fixed seats (32 regular and 2 ADA compliant seating). Based on the parking proposed on site, the project site may be utilized by approximately 36 persons at any given time. Therefore, there is adequate parking.

In addition, the applicant has prepared a Congregation Management Plan that identifies that the proposed religious assembly sessions would typically accommodate approximately 20 to 30 people at each event. To minimize the impact of parking in the neighborhood, the religious assembly use has alternative parking arrangements with the Evergreen School District for the use of the parking lot which is at a distance of approximately 500 feet from the subject site.

In accordance with the Congregation Management Plan, the applicant proposes to utilize volunteers to conduct shuttle services from the off-site parking and to also direct the parishioners to park in the alternate off-site parking lot. Signs to the offsite parking lot shall be posted on the premises and parishioners are discouraged from parking along public residential streets.

### *Neighborhood Concerns*

The concerns raised regarding this religious assembly use are owing to the proximity to immediately surrounding single-family residences. The surrounding community has consistently protested any development of the site due to: 1) the impacts of vehicles parking along the surrounding residential public streets (primarily on Saturdays and Sundays), 2) noise generated from the rear of the project site, 3) increased vehicular traffic on South White Road on Sundays owing to large gatherings, 4) vehicular turnarounds on and blocking of private driveways and fire hydrants, 5) congregation of people in front of driveways and side of the street that impede traffic and create pedestrian safety issues, 6) unscheduled drop offs on Westbranch Drive, 7) street littering, 8) no parking for residents available on most days including weekdays, and 9) vehicles backed up on Westbranch Drive due to poor visibility.

In addition to attending the scheduled community meeting, staff has received letters and correspondence that reflect the concerns of the community. Staff has acknowledged the neighborhood feedback and has recommended specific conditions to address many of the impacts identified as discussed in this report.

Many of the issues related to parking and increased traffic can be addressed with conditions to: reconfigure congregation schedule, utilize volunteers to direct traffic off-site, educate parishioners on rules of engagement, on-site congregation management by members, formalize off-site parking arrangements, and continue a parking program.

The applicant has segregated the religious assembly use into sessions to restrict the number of persons attending each event and has provided congregation schedule and hours of operation (see attached Congregation Management Plan). The primary days of operation of the religious assembly use are on Saturdays and Sundays. The main sanctuary is open from 9:00 a.m. until 5:00 p.m. on both days with two-three sessions per day during that period. The weekday operations are limited to twice a month events based on the lunar calendar and are typically scheduled in the evenings between 5:30 p.m. and 8:00 p.m.

The congregation intends to be respectful of the surrounding neighborhood and their quality of life. The religious assembly use plans to continue to work with the residents to addresses the concerns that may arise from time to time.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

4. The proposed project is consistent with the adopted Envision San José 2040 General Plan of the City of San José.
5. The proposed project complies with all applicable provisions of the Zoning Ordinance.
6. The proposed project is exempt from review in accordance with the California Environmental Quality Act.

In order to approve a Conditional Use Permit per Section 20.100.720 of the Zoning Ordinance, three specific findings to be made for the Planning Commission to approve the proposed project. These findings include:

- 1) The proposed use at the location requested will not:
  - a) Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
  - b) Impair the utility or value of property of other persons located in the vicinity of the site; or
  - c) Be detrimental to public health, safety or general welfare; and

*Analysis of Required Finding:* The draft resolution for the Planned Development Permit includes conditions to address potential parking issues and other potential nuisances, including noise and litter. The proposed religious assembly use will not adversely affect the peace, health, safety, morals or welfare of persons in the surrounding area.

- 2) The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and

*Analysis of Required Finding:* The project will be located on a site at the same location as that of an accessory tower structure in conformance with development standards per Zoning Ordinance. The congregation management schedule has categorized the congregation attendance into sessions to regulate the total number of parishioners on site at any given time.

- 3) The proposed site is adequately served:
  - a) By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
  - b) By other public or private service facilities as are required.

*Analysis of Required Finding:* The project site is sufficiently served by existing transportation systems. However, the increased vehicular volume on the property is proposed to be mitigated by scheduling, on-site management and off-site alternative parking arrangements.

All of the above findings can be made based on the facts, as listed in the attached draft Resolution for this Permit.



## ENVIRONMENTAL REVIEW

This project has been found to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15332. Under this section, infill projects are exempt when the following four criteria are met:

1. The project is consistent with the applicable General Plan policies as well as with the applicable zoning designation and regulations.
2. The proposed development occurs within city limits on a project site of no more than five acres surrounding by urban uses. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
3. The site can be adequately served by all required utilities and public services.

*Analysis:* The Envision San Jose 2040 General Plan Designation for the subject site is that of Residential Neighborhood. There are adequate utilities and services in place that were constructed as part of the original single family residence. The Department of Public Works conducted an in-house review of the traffic impacts and concluded that traffic associated with this use will occur primarily on weekends or evenings, and would thereby have minimal or negligible impacts to signalized intersection during the standard morning and evening commute hours. For this reason, the project is deemed to conform to the City's Traffic Level of Service (LOS) Policy which establishes the threshold of significance as it related to traffic issues.

## CONCLUSION

The subject Conditional Use Permit is consistent with the Envision San Jose 2040 General Plan. The use conforms to City Council Policy 6-11, Design Criteria for Conversion of Residential Structures to Non-Residential Uses, as discussed above.

The surrounding neighborhood has experienced issues related to the close proximity of the existing religious assembly use to the residential uses. Staff is supportive of a project that includes permit conditions that when implemented would minimize the impact of the religious assembly use on the adjacent neighborhood.

It is evident that an expanded area to facilitate the needs of its congregation is necessary. By requiring the inclusion of the main sanctuary into the project approval, the appropriate conditions can be placed over the entire site to address the many issues and concerns presented when expanding within a residential area.

As discussed in this report and set forth in the attached conditions, staff anticipates that with the enforcement of the attached schedule and conditions, the addition of religious assembly use to this single family residential property would not present a situation where the use would be a nuisance, but rather remedy some of the conditions present within the existing facility site and utilize the new addition to efficiently accommodate the congregation. Under the provisions of Section 15332, In-Fill Development of Projects, of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project has been found to be exempt from environmental review

**PUBLIC OUTREACH**

Public outreach for the project has followed City Council Public Outreach Policy 6-30. A community meeting was held on September 17, 2012, and approximately 28 members of the public attended the meeting. The attendees were concerned that the site was over-utilized. Specific complaints pertained to on-street parking and traffic impacts, overcrowding of the site, noise and outdoor activity.

Property owners and occupants within a 500-foot radius were sent public hearing notices for the Planning Commission hearing. This staff report has been posted on the City's web site. Staff has been available to discuss the proposal with interested members of the public.

**Project Manager:** Aparna Ankola **Approved by:** Jaime Prevetti **Date:** 12/20/2012

Owner/Applicant:	Attachments:
<u>Owner:</u> Uy Thi Dong 2977 South White Road San Jose, CA 95148	Draft Resolution Congregation Management Plan Plan Set



## **RESOLUTION NO. 13-**

Resolution of the Planning Commission of the City of San José granting, subject to conditions, a Conditional Use Permit to allow a new 1,737 square foot addition including restrooms and utility structure for religious assembly use with associated site improvements, within the rear yard of an existing single-family residence on a 0.47 gross acre site, located on the west side of South White Road, approximately 190 feet northerly of Westbranch Drive (2977 South White Road).

### **FILE NO. CP11-045**

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN JOSÉ:

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on June 13, 2011, an application (File Number CP11-045) was filed for a Conditional Use Permit for the purpose of allowing a new 1,737 square foot addition including restrooms and utility structure for religious assembly use with associated site improvements within the rear yard of an existing single-family residence on a 0.47 gross acre site, on that certain real property (hereinafter referred to as "subject property"), situated in the R-1-8 Single Family Residential Zoning District, located on the west side of South White Road, approximately 190 feet northerly of Westbranch Drive (2977 South White Road) in the City of San José, and

WHEREAS, the subject property is all that real property described in Exhibit "A," which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this Planning Commission conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing this Planning Commission received and considered the reports and recommendation of the Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this Planning Commission received in evidence a development plan for the subject property entitled, "Residential Remodeling and Addition, Worship Place and Residence, 2977 South White Road, San Jose CA 95148." dated July 30, 2012. Said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said development plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

WHEREAS, said hearing was conducted in all respects as required by the San José Municipal Code and the rules of this Planning Commission;

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN JOSE AS FOLLOWS:

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. The project site is located on the west side of South White Road, approximately 190 feet northerly of Westbranch Drive (2977 South White Road).
2. The project site has a designation of Residential Neighborhood on the adopted Envision San Jose 2040 General Plan Land Use/Transportation Diagram.
3. The project site is located in the R-1-8 Single-Family Residence Zoning District.
4. The subject site is approximately 0.47 gross acres.
5. The subject site is bounded by single-family residential uses on the north, west and south, and across South White Road to the east.
6. The new construction consists of a 1,237 square feet main sanctuary and a 500 square feet restroom/utility structure.
7. The project site consists of an existing 1,406 square feet main residence to the front of the site and a 1,014 square feet detached accessory/garage structure at the rear northwest corner.
8. The project site consists of an existing 394 square feet tower structure and storage unit along the north property line which is proposed to be removed and new construction is proposed at the same location.
9. The proposed religious assembly use is provided with a total of 34 fixed seats (32 seats and 2 ADA accessible spaces).
10. The project site requires a total number of 10 parking spaces based upon (1) parking space per 4 seats provided for assembly.
11. A total of seven (7) off-street parking spaces and four (4) private garage parking spaces within the existing garage/accessory structure are provided on the project site.

12. A community meeting conducted on September 17, 2012, had 28 neighbors in attendance. The neighbors expressed concerns regarding the over-crowding on site, irregular parking, blocking off residential driveways and fire hydrants, high volume of traffic within the neighborhood, traffic congestion, litter along public streets, noise and security issues.
13. In response to the community meeting comments, the proposed religious assembly use has drafted a Congregation and Parking Management Plan, on file with the Department of Planning, Building and Code Enforcement.
14. Under the provisions of Section 15332, In-Fill Development of Projects, of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project has been found to be exempt from environmental review.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted Envision San José 2040 General Plan of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is exempt from environmental review in accordance with the California Environmental Quality Act (CEQA).

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
  - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
  - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
  - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
  - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
  - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

## CONDITIONS

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit by the applicant; and
  - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit pursuant to Title 20 of the San José Municipal Code. The Permit Adjustment must be approved prior to the expiration of this Permit.
3. **Conformance with Plans.** The use of this property shall conform to approved plans entitled, “Residential Remodeling and Addition, Worship Place and Residence, 2977 South White Road, San Jose CA 95148” dated July 30, 2012 on file with the Department of Planning, Building and Code Enforcement.
4. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
5. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
6. **Use Authorization.** This Conditional Use Permit authorizes the following uses to be implemented on the property subject to the terms of this permit:
  - a. Religious Assembly use at the proposed Main Sanctuary.
7. **Permittee Responsibility.** The permittee shall ensure that the uses authorized by this Permit are implemented in conformance with all of the provisions of this Permit.

8. **Permit Adjustment.** The applicant shall secure and agree to timely implement a Permit Adjustment with thirty (30) days of the issuance of this permit that addresses the following items noted below to the satisfaction of the Director of Planning. Failure to comply with this condition will render this subject Conditional Use Permit null and void.
  - a. *Perimeter Fences.* The applicant shall be responsible for the construction, repair and maintenance of 6 to 7 foot tall good neighbor fences adjacent to all neighboring single-family residence rear yards. New, tall shrubbery shall be planted adjacent to such fences, as required, for screening. A permit adjustment shall be secured for the approval of all related improvements.
  - b. *Landscape Improvements.* Landscape improvements and upgrades shall be provided within the primary parking lot of the main facility and front setback areas in addition to the front yard and park strip area.
9. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws. Prior to the issuance of a building permit, the following requirements must be met to the satisfaction of the Chief Building Official:
  - a. *Construction Plans.* The permit file number, CP11-045, shall be printed on all construction plans submitted to the Building Division.
  - b. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
  - c. *Mechanical Ventilation.* The new sanctuary shall be equipped with a mechanical ventilation system (i.e. air conditioning/heating) so that windows and doors may remain shut in order to minimize the noise impacts from assembly activities to adjacent residential uses.
10. **Fire Department Requirements.** The permittee shall meet all requirements of the Fire Department at the Building or Occupancy Permit stage as appropriate.
11. **Public Works Clearance.** Prior to issuance of Building Permits, the applicant will be required to have satisfied all of the following Public Works Conditions to the satisfaction of the Director of Public Works:
12. *Transportation.* This project is exempt from the Level of Service (LOS) Policy, and no further LOS analysis is required because the proposed project does not add any peak hour trips to the existing traffic.

13. *Minor Improvement Permit.* The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
14. *Storm Water Runoff Pollution Control Measures.* This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and storm water treatment controls to minimize storm water pollutant discharges.
15. *Sewage Fees.* In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
16. *Construction Agreement.* The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
17. *Street Improvements:* Remove and replace broken or uplifted curb, gutter, and sidewalk. Proposed driveway widths to be 26 feet maximum. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works. Dedication of 15 feet to provide for a 12 feet sidewalk along the project frontage on White Road.
18. *Electrical:* Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvements plans. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
19. **Hours of Operation.** The hours of operation for congregation at the main sanctuary are 9:00 a.m. to 5:00 p.m. on Saturday and Sunday. Activities based on the Lunar Calendar are scheduled on weekday evenings between 5:30 p.m. to 8:00 p.m. Additional one-time special annual events are scheduled twice a year in April and July at a location other than the subject site.
20. **Residential Uses.** No residential uses are permitted within any of the subject buildings upon the approval of this Conditional Use permit. Any consideration of future conversion to residential uses requires a Conditional Use Permit Amendment.
21. **Single-family Detached Residences.** The single-family detached residence shall not be altered either on the interior floor plan or exterior without the approval of the Director of Planning through a Permit Adjustment.
22. **Neighborhood Relations.** The religious assembly use on subject site shall work with any neighborhood group(s) or individual(s) in an effort to address any impacts the use may have on the neighboring community. An 8.5 x 11 inch window sign that is visible from the public side of the main sanctuary building shall be posted with the appropriate contact information.



23. **Noise.** Sounds shall be contained within the buildings and the buildings shall be adequately insulated to prevent excessive sound from emanating outside. The interiors of each of the buildings may need to be upgraded to provide sufficient air conditioning to allow all doors and windows on the subject site to remain closed during the operation and activities of the site. Maximum noise levels emanating from the interior any of the facilities shall not exceed 55 decibels at the adjacent property line.
24. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. The property owner shall abate any such nuisance immediately upon notice, or City may do so under and pursuant to the applicable provisions of the San Jose Municipal Code.
25. **Parking Management Program.** This use shall be operated in a manner that conforms to the Congregation Management Plan, dated November 13, 2012, on file with the Department of Planning, Building and Code Enforcement. The applicant shall a system to direct traffic to the alternative off-site parking lot as required.
26. **Parking Information and Education.** A map of all appropriate parking locations and services shall be printed in English and in other languages on any programs distributed or made available to parishioners prior to all services. An enlarged version of this map and information shall be permanently posted near the doorway of each entrance. All available public transportation services and stop locations shall be included with the above-mentioned information.
27. **Use Restrictions for Outdoor Areas Adjacent to Existing Residences.** The outdoor areas shall be used as a garden for passive outdoor activities only and shall exclude any/all assembly activities.
28. **Landscaping.** Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner.
29. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms and is consistent with the City of San Jose Landscape and Irrigation Guidelines.
30. **Street Trees.** Street trees shall be replaced and replanted with those portions of the public-right-of-way in which they removed. The Department of Transportation and the City Arborist shall determine the number and species of trees to be planted.
31. **Tree Removals.** No tree larger than 56 inches in circumference, at a height 24 inches above the natural grade slope, may be removed without a Tree Removal Permit issued by the Director of Planning.
32. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Conditional Use Permit incorporated by reference in this Permit in accordance with the San José, Municipal Code.

33. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
34. **Lighting.** On-site lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property. All outside lighting at the rear yard shall be turned off by 10:00 p.m.
35. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed. Trash areas shall be maintained in a manner to discourage illegal dumping. The applicant shall ensure that there are provisions for frequent trash pick-ups as needed to avoid overflow.
36. **Outside Storage.** No outside storage is permitted except in areas designated on the approved plan set.
37. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning pursuant to applicable sections of the San Jose Municipal Code.
38. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
39. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the resolution granting this Conditional Use Permit is approved by the Planning Commission, or City Council on appeal. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two (2) years. The Permit Adjustment must be approved prior to the expiration of this Permit.

40. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Chapter 20.100, Title 20 of the San José Municipal Code, it finds:

- a. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. The use as presently conducted creates a nuisance.

**ADOPTED** and issued this **9<sup>th</sup> day of January 2013**, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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EDESA BIT-BADAL  
Chairperson

ATTEST:

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JOSEPH HORWEDEL  
Director of Planning Building & Code Enforcement  
Planning Commission Secretary

**NOTICE TO PARTIES**

*The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.*

# Congregation Management Plan

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## Scheduled Events

- ***Weekly Activities:***

- A. **Every Sunday** – Three different praying sessions:

- 1. **Session I : From 9:30 am – 10:45 am**

- Worship and study Sutras

- Participants: Around 30 people

- 2. **Session II : From 11:30 am – 12:45 pm**

- Worship and study Sutras

- Participants: Around 30 people

- 3. **Session III: From 2:30 pm – 3:45 pm**

- Worship and study Sutras

- Participants: Around 30 people

- B. **Saturday:**

- **Occasional Events on Saturday: Praying for deceased people**  
( by scheduling with family of deceased person) :

- Praying for divine blessing / rebirth in the Pure Land.

- From: 11:00 am – 1:30 pm

- Participants: About 15 – 20 people

- **Last Saturday of the Month: Meditation & Retreat Session**

- 1. **Session I: From 9:00 am – 12:00 pm**

- Participants: Around 20 people

- 2. **Session II: From 2:00 pm – 5:00 pm**

- Participants: Around 20 people

▪ ***Monthly Activities:*** Lunar Calendar

a. **Every 14<sup>th</sup> and 30<sup>th</sup> day:** Repentance Session

1. **Session I:** From 5:30 pm – 6:30 pm  
Participants: Around 20 people
2. **Session II:** From 7:00 pm – 8:00 pm  
Participants: Around 20 people

b. **Every 1st and 15th day:** Reciting Bodhisattva Precepts Session

1. **Session I:** From 5:30 pm – 6:30 pm  
Participants: Around 20 people
2. **Session II:** From 7:00 pm – 8:00 pm  
Participants: Around 20 people

▪ ***Two Annual Special Events*** - Celebrated at Holly Oak School:

Lunar Calendar

**The 15<sup>th</sup> of April:** Celebration of Sakyamuni Buddha's Birthday

From 11:00 am – 2:00 pm

Participants: About 150 people

**The 15<sup>th</sup> of July:** Ullambana/Filiality Ceremony

From 11:00 am – 2:00 pm

Participants: About 150 people

## Parking Management Plan

### **Rental of School Parking Lot:**

Congregation has rented Holly Oak School's parking lot for every Sunday and two annual events as follows:

- **Rental agreement with the school for Sunday** has been renewed every year according to school fiscal year, starting mid June and ending mid June in the following year. Current year agreement covers the period from June 25, 2012 to June 24, 2013 for every Sunday from 9 AM to 5 PM ( copy of agreement attached).
- **Rental agreement for the first annual event** – Buddha's Birthday Celebration scheduled on May 19, 2013: Rental is for May 18, 2013 from 10 AM to 3 PM (the day before the event for its preparation) and May 19, 2013 from 7 AM to 4 PM for the event celebration starting 11 AM and ending about 2 PM (copy of agreement attached).
- **The second annual event** – Filiality Ceremony is scheduled on August 18, 2013. The school Principal already reserved August 17, 2013 from 10 AM to 3 PM (preparation for the event), and August 18, 2013 from 7 AM to 4 PM for the event ceremony starting 11 AM and ending about 2 PM. The Principal will process its rental agreement when time comes for the school next fiscal year July 2013 – June 2014 processing.



**Educating attendees on rules of engagement:**

The Venerable Master instructs all attendees in his sessions and frequently reminds them:

- To park in the Holly Oak School parking lot.
- Not to park illegally, not to make noise or litter.

**Management of traffic navigation and parking:**

All congregation members are taught to follow the above instructions.

Three or four members (more members for annual events) are assigned a half hour before every session to direct the attendees to park in the School parking lot.

A volunteer team is assigned to patrol and manage the traffic navigation in front of the property and along the Westbranch Drive .

# Memorandum

**TO:** Jenny Nusbaum  
Planning and Building

**FROM:** Michael Liw  
Public Works

**SUBJECT: FINAL RESPONSE TO  
DEVELOPMENT APPLICATION**

**DATE:** 06/15/12

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**PLANNING NO.:** CP11-045  
**DESCRIPTION:** 2977 CODE CASE: Conditional Use Permit to allow religious assembly use at an existing 308-square-foot detached garage/accessory structure, and to allow associated site improvements, including the additions of drop-off area and surface parking spaces on a 0.47 gross acre site  
**LOCATION:** west side of South White Road, approximately 190 feet northerly of Westbranch Drive  
**P.W. NUMBER:** 3-18594

Public Works received the revised plans for the subject project on 05/25/12 and submits the following comments and requirements.

## **Project Conditions:**

**Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

1. **Transportation:** This project is exempt from the Level of Service (LOS) Policy, and no further LOS analysis is required because the proposed project does not add any peak hour trips to the existing traffic.
2. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
3. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges.

4. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
5. **Street Improvements:**
  - a) Remove and replace curb, gutter, and sidewalk along project frontage.
  - b) Proposed driveway widths to be 26' maximum.
  - c) Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
  - d) Dedication of 15' to provide for a 12' sidewalk along the project's frontage on White Road.
6. **Electrical:**
  - a) Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans
  - b) Locate and protect existing electrical conduit in driveway and/or sidewalk construction.

Please contact the Project Engineer Norman Mascarinas at (408) 535-6812 if you have any questions.



Michael Liw  
Principal Engineer  
Development Services Division

# EVERGREEN SCHOOL DISTRICT

## Application for Use of School Facilities for Public Purposes

Name of Organization QUAN THE AM THIEN TU Date May 21, 2012  
Address 2977 S. WHITE RD, SAN JOSE CA 95148  
Contact Person MS. UY DONG Day Phone (408) 613-8566  
School Facility Requested PARKING LOT  
Purpose of Use TEMPLE EVENT

Number of Participants: Adults 40 Children \_\_\_\_\_ Kitchen Facilities: Yes \_\_\_\_\_ No \_\_\_\_\_

Date(s) Requested: (Attach additional sheet of paper if needed)

Date EVERY SUNDAY Time 9:00 AM to 5:00 PM

Date June 25, 2012 to June 24, 2013 Time \_\_\_\_\_ to \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_ to \_\_\_\_\_

Room Set-up: (chairs only, theater style; tables & chairs; podium; table for buffet service, etc.)

### APPLICANTS MUST ENFORCE STATE LAW PROHIBITING SMOKING ON SCHOOL PROPERTY INCLUDING ON ALL OUTSIDE AREAS.

All applicants must provide a certificate of insurance verifying the applicant's liability coverage for a minimum of one million dollars and showing Evergreen School District as both a "certificate holder" and "additional insured."

The use of a school building and kitchen facilities during the evening or weekend requires the paid presence of a custodian and a Child Nutrition Services assistant. The custodian needs to be on duty during the activity plus one hour before the activity to set up and one hour after to clean up and secure the building. The kitchen and equipment are to be used and operated by CNS staff only. A fee must be charged to cover the salary and prorated benefits of these employees at time and 1/2. All fees are to be paid in advance.

Rental Fee: Parking Lot \$ \_\_\_\_\_ Hours @ \_\_\_\_\_

Custodian: \$ \_\_\_\_\_ Hours @ \_\_\_\_\_

Child Nutrition Services Assistant: \$ \_\_\_\_\_ Hours @ \_\_\_\_\_

Total Fee for use of facility: \$ \_\_\_\_\_

[Signature]  
Applicant's Signature

[Signature] 9/19/12  
Approved  
[Signature] 5/21/2012  
Principal's Signature Date

May 21, 2012  
Date

\_\_\_\_\_  
Director/Fiscal & Business Services Date

# EVERGREEN SCHOOL DISTRICT

## Application for Use of School Facilities for Public Purposes

Name of Organization QUAN THE AM THIEN TU Date \_\_\_\_\_  
Address 2977 S. WHITE RD, SAN JOSE CA 95148  
Contact Person Ms UY DONG Day Phone (408) 613-8566  
School Facility Requested CAFETERIA OR (408) 223-1425  
Purpose of Use TEMPLE EVENT email: qtatt2977@yahoo.com  
Number of Participants: Adults 200-300 Children \_\_\_\_\_ Kitchen Facilities: Yes \_\_\_\_\_ No ☒  
Date(s) Requested: (Attach additional sheet of paper if needed)  
Date MAY 18, 2013 Time 10:00 AM to 3:00 PM  
Date MAY 19, 2013 Time From to 4:00 PM  
Date \_\_\_\_\_ Time \_\_\_\_\_ to \_\_\_\_\_

Room Set-up: (chairs only, theater style; tables & chairs; podium; table for buffet service, etc.)

### APPLICANTS MUST ENFORCE STATE LAW PROHIBITING SMOKING ON SCHOOL PROPERTY INCLUDING ON ALL OUTSIDE AREAS.

All applicants must provide a certificate of insurance verifying the applicant's liability coverage for a minimum of one million dollars and showing Evergreen School District as both a "certificate holder" and "additional insured."

The use of a school building and kitchen facilities during the evening or weekend requires the paid presence of a custodian and a Child Nutrition Services assistant. The custodian needs to be on duty during the activity plus one hour before the activity to set up and one hour after to clean up and secure the building. The kitchen and equipment are to be used and operated by CNS staff only. A fee must be charged to cover the salary and prorated benefits of these employees at time and 1/2. All fees are to be paid in advance.

Rental Fee:	\$ _____	Hours @ _____
Custodian:	\$ _____	Hours @ _____
Child Nutrition Services Assistant:	\$ _____	Hours @ _____
Total Fee for use of facility:	\$ _____	

Approved

[Signature]  
Applicant's Signature

[Signature]  
Principal's Signature

9/19/12  
Date

Sept - 19 - 2012  
Date

\_\_\_\_\_  
Director/Fiscal & Business Services Date